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16 *Attorneys for Non-Party Netflix, Inc.*

17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

19 **MAXIMILIAN KLEIN, et al,**

20 Plaintiffs,

21 v.

22 **META PLATFORMS, INC.,**

23 Defendant.

CASE NO.: 3:20-cv-08570-JD

**DECLARATION OF MELINDA
LEMOINE**

24 I, Melinda LeMoine, declare as follows:

25 1. I am Director of Litigation at non-party Netflix, Inc. ("Netflix"). I have personal
26 knowledge of all facts set forth in this declaration and could testify competently thereto if called as
27 a witness.

28 2. On June 22, 2023, the Court in the above-captioned matter ordered Netflix to provide
a declaration describing the document searches Netflix performed to respond to the subpoenas

1 served by Advertiser Plaintiffs upon Netflix and Wilmot Reed Hastings, Netflix's former co-CEO
2 and current Chairman of the Board. My declaration describes the searches Netflix performed.

3 **I. REED HASTINGS EMAIL SEARCH**

4 3. On April 27, 2023, the Court ordered Netflix to undertake a custodial search and
5 review of Mr. Hastings's personal email account.

6 4. I understand that Netflix's outside counsel at Wilson Sonsini Goodrich & Rosati P.C.
7 ("Wilson Sonsini") negotiated with Advertiser Plaintiffs regarding the search terms and relevant
8 time period for the review of Mr. Hastings' email. I further understand that the parties agreed on the
9 following search terms to be run over Mr. Hastings's emails for the time period January 1, 2015 to
10 December 31, 2019.

Advertiser Plaintiffs' Search Terms Used in Hastings Email Review	
(Watch or Netflix) AND (Mark or MZ or *Zuck* or *Sheryl* or Sandberg or SS or schrage or elliott or bos* or boz)	
((FB or Facebook or Insta* or IG or WhatsApp) and (compet* or win* or lose* or bid*)) and (video or streaming or original*)	
(Facebook or Insta* or FB or IG or WhatsApp) and (advertis* or "Custom Audiences" or CA)	
(FB or Facebook or Insta* or IG or WhatsApp) and ("API" or "APIs")	
(FB or Facebook or Insta* or IG or WhatsApp) and (data or agree*)	
(FB or Facebook) and ("Compensation and Governance")	
(*Sheryl* OR Sandberg* or SS) and Fireside	
Onavo	
Atlas	
(Facebook or Insta* or FB or IG or WhatsApp) and (Product w/2 Catalog*)	
(Facebook or Insta* or FB or IG or WhatsApp) and (Signal*)	
(Facebook or Insta* or FB or IG or WhatsApp) and (Analytics OR Measurement) and (Advance* or Alpha or Beta)	

21 5. Mr. Hastings used a personal email account for correspondence relating to his service
22 on the Facebook Inc. Board of Directors. On May 15, 2023, counsel for Netflix and Netflix's
23 computer forensics consultant, Setec Investigations, conducted a forensic collection of that personal
24 email account for the time period January 1, 2015 through December 31, 2019. Netflix's e-discovery
25 vendor Lighthouse then processed the collection and ran Advertiser Plaintiffs' search terms over the
26 collection.

27 6. I directed Netflix's outside counsel at Wilson Sonsini to conduct a manual review
28 of each of the emails and attachments that hit on Advertiser Plaintiffs' search terms for

1 responsiveness and privilege. I directed Wilson Sonsini to produce to plaintiffs the responsive,
2 non-privileged emails and attachments.

3 **II. NETFLIX COMPETITION-RELATED SEARCH**

4 7. In response to document subpoenas served on Netflix in *Federal Trade*
5 *Commission v. Meta Platforms Inc.* and *Klein v. Meta Platforms Inc.*, Netflix undertook a search
6 for documents related to competition between Netflix and Meta products (including Facebook
7 Watch).

8 8. Netflix undertook a custodial ESI collection and search of the files of Kevin
9 Creighton, Netflix's Director of Market Intelligence. Mr. Creighton is responsible for managing
10 competitive analysis at Netflix and has had this responsibility since he joined Netflix in April 2018.
11 Netflix personnel working at my direction collected emails from Mr. Creighton's files for the time
12 period beginning April 1, 2018 (just before Mr. Creighton began his job at Netflix) and ending
13 August 17, 2022 that hit upon the following search terms:

14 (Meta OR Facebook OR Instagram OR FB OR IG OR "Insta" OR Snap OR
15 "social media" OR "social networking" OR "social network" OR "social
16 networks" OR PSN OR "Personal social") AND (compete OR competed OR
17 competes OR competition OR competitive OR competitor OR substitute OR
substitutes OR churn OR diversion OR SWOT OR (Market AROUND 3 share))

18 Documents from Mr. Creighton's files that hit on these search terms were processed to be reviewed
19 for responsiveness.

20 9. In addition to this custodial search, I asked Mr. Creighton to search for and identify
21 documents analyzing Netflix's competition with Facebook or Instagram created from January 1,
22 2019 through October 2022 (when the survey was performed). Any documents resulting from this
23 survey were included in the review set.

24 10. I understand that each of the documents in the review set were manually reviewed
25 for responsiveness and privilege by contract attorneys employed by Consilio, LLC, working under
26 the supervision of Wilson Sonsini attorneys.

27 I declare under penalty of perjury under the laws of the United States of America that the
28 foregoing is true and correct.

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Executed on: June 29, 2023

DocuSigned by:



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Melinda LeMoine